

1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
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FILED
MAY - 2 1997
DEPARTMENT OF REAL ESTATE

By *Laurie A. Zier*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-3261 SAC
12))
13 ISMAEL PAPO PEREZ,) OAH NO. N-9703013
14))
15 Respondent.) STIPULATION AND
) AGREEMENT IN
) SETTLEMENT AND ORDER

16 It is hereby stipulated by and between Respondent
17 ISMAEL PAPO PEREZ (hereinafter "PEREZ" or "Respondent"), and the
18 Complainant, acting by and through James L. Beaver, Counsel for
19 the Department of Real Estate, as follows, for the purpose of
20 settling and disposing of the Accusation filed on February 6, 1997
21 in this matter (hereinafter "the Accusation").

22 1. All issues which were to be contested and all
23 evidence which was to be presented by Complainant and Respondent
24 at a formal hearing on the Accusation, which hearing was to be
25 held in accordance with the provisions of the Administrative
26 Procedure Act (APA), shall instead and in place thereof be
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1 submitted solely on the basis of the provisions of this
2 Stipulation.

3 2. Respondent has received, read and understands the
4 Statement to Respondent, the Discovery Provisions of the APA and
5 the Accusation filed by the Department of Real Estate in this
6 proceeding.

7 3. On February 24, 1997, pursuant to Section 11505 of
8 the Government Code, Respondent filed a Notice of Defense for the
9 purpose of requesting a hearing on the allegations in the
10 Accusation. Respondent hereby freely and voluntarily withdraws
11 said Notice of Defense. Respondent acknowledges that Respondent
12 understands that by withdrawing said Notice of Defense Respondent
13 waives Respondent's right to require the Commissioner to prove the
14 allegations in the Accusation at a contested hearing held in
15 accordance with the provisions of the APA and that Respondent
16 waives other rights afforded to Respondent in connection with the
17 hearing such as the right to present evidence in defense of the
18 allegations in the Accusation and the right to cross-examine
19 witnesses.

20 4. Respondent, subject to the limitations set forth
21 below, hereby admits that the factual allegations in Paragraphs I
22 through III, inclusive, of the Accusation are true and correct.
23 Without limiting the foregoing, Respondent particularly admits
24 that: (a) on or about February 28, 1994, in the Municipal Court of
25 the State of California, County of Sacramento, Respondent was
26 convicted of the crime of WELFARE FRAUD, in violation of Welfare
27 and Institutions Code Section 10980(c)(2), a misdemeanor and a

1 crime involving moral turpitude which bears a substantial
2 relationship under Section 2910, Title 10, California Code of
3 Regulations to the qualifications, functions or duties of a real
4 estate licensee; (b) in said Municipal Court proceedings,
5 Respondent was sentenced to a three-year term of probation, and
6 ordered to pay restitution in the sum of \$3,008.00; and (c) said
7 term of probation has been extended to February 28, 1999.
8 Respondent agrees that the Real Estate Commissioner may base his
9 decision herein on the allegations of the Accusation, and agrees
10 that the Real Estate Commissioner shall not be required to provide
11 further evidence to prove such allegations.

12 5. It is understood by the parties that the Real
13 Estate Commissioner may adopt the Stipulation and Agreement as his
14 decision in this matter thereby imposing the penalty and sanctions
15 on Respondent's real estate license and license rights as set
16 forth in the "Order" set forth below. In the event that the
17 Commissioner in his discretion does not adopt the Stipulation and
18 the Agreement in Settlement, this Agreement shall be void and of
19 no effect, and Respondent shall retain the right to a hearing and
20 proceeding on the Accusation under all the provisions of the APA
21 and shall not be bound by any admission or waiver made herein.

22 6. The Order or any subsequent Order of the Real
23 Estate Commissioner made pursuant to this Stipulation and
24 Agreement in Settlement shall not constitute an estoppel, merger
25 or bar to any further administrative or civil proceedings by the
26 Department of Real Estate with respect to any matters which were

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1 not specifically alleged to be causes for accusation in this
2 proceeding.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations, agreements and
5 waivers and solely for the purpose of settlement of the pending
6 Accusation without a hearing, it is stipulated and agreed that the
7 following determination of issues shall be made:

8 I

9 The acts and omissions of Respondent described in the
10 Paragraphs I through III, inclusive, of the Accusation constitute
11 cause under Sections 490 and 10177(b) of the California Business
12 and Professions Code for the suspension or revocation of all
13 licenses and license rights of Respondent under the Real Estate
14 Law.

15 ORDER

16 All licenses and licensing rights of Respondent
17 ISMAEL PAPO PEREZ under the Real Estate Law are revoked; provided,
18 however, a restricted real estate salesperson license shall be
19 issued to Respondent pursuant to Section 10156.5 of the Business
20 and Professions Code if Respondent makes application therefor and
21 pays to the Department of Real Estate the appropriate fee for the
22 restricted license within ninety (90) days from the effective date
23 of this Decision. The restricted license issued to Respondent
24 shall be subject to all of the provisions of Section 10156.7 of
25 the Business and Professions Code and to the following
26 limitations, conditions and restrictions imposed under authority
27 of Section 10156.6 of that Code:

1 1. The restricted license issued to Respondent may be
2 suspended prior to hearing by Order of the Real Estate
3 Commissioner in the event of Respondent's conviction or plea of
4 nolo contendere to a crime which is substantially related to
5 Respondent's fitness or capacity as a real estate licensee.

6 2. The restricted license issued to Respondent may be
7 suspended prior to hearing by Order of the Real Estate
8 Commissioner on evidence satisfactory to the Commissioner that
9 Respondent has violated provisions of the California Real Estate
10 Law, the Subdivided Lands Law, Regulations of the Real Estate
11 Commissioner or conditions attaching to the restricted license.

12 3. Respondent shall not be eligible to apply for the
13 issuance of an unrestricted real estate license nor the removal of
14 any of the conditions, limitations or restrictions attaching to
15 the restricted license until one (1) year has elapsed from the
16 date of issuance of the restricted license to Respondent.
17 Respondent shall not be eligible to apply for the issuance of an
18 unrestricted real estate license until Respondent provides proof
19 satisfactory to the Real Estate Commissioner that Respondent has
20 successfully completed the term of probation and fully satisfied
21 and discharged the restitution obligation described in
22 Paragraph 4, above.

23 4. Respondent shall submit with any application for
24 license under an employing broker, or any application for transfer
25 to a new employing broker, a statement signed by the prospective
26 employing real estate broker on a form approved by the Department
27 of Real Estate which shall certify:

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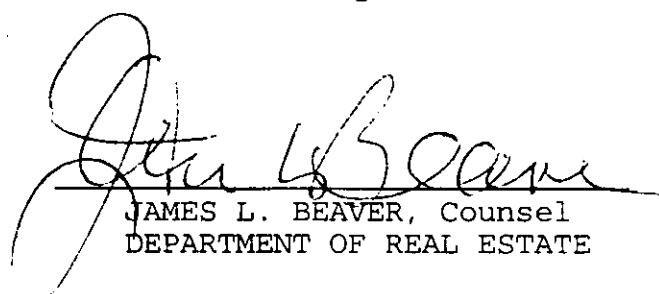
(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

5. Respondent shall, within nine (9) months from the effective date of the Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

6. Any restricted real estate salesperson license issued to Respondent may be suspended or revoked for a violation by Respondent of any of the conditions attaching to the restricted license.

March 31, 1997
DATED


JAMES L. BEAVER, Counsel
DEPARTMENT OF REAL ESTATE

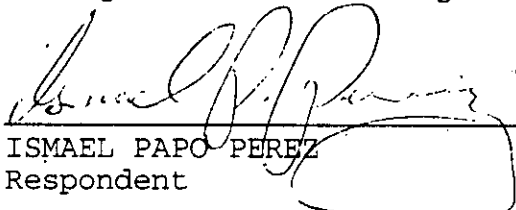
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I have read the Stipulation and Agreement and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

March 31st 1997
DATED


ISMAEL PAPO PEREZ
Respondent

* * *

The foregoing Stipulation and Agreement for Settlement
is hereby adopted by the Real Estate Commissioner as his Decision
and Order and shall become effective at 12 o'clock noon on
May 22, 1997.

IT IS SO ORDERED 4/15, 1997.

JIM ANTT, JR.
Real Estate Commissioner



TO: FLAG SECTION
FROM: SACTO. LEGAL

FILED
MAR - 7 1997

DEPARTMENT OF REAL ESTATE
**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

Laurie A. Zim

In the Matter of the Accusation of

ISMAEL PAPO PEREZ,

Case No. H-3261 SAC

OAH No. N-9703013

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the
Office of Administrative Hearings, 501 J Street, Suite 220 (Second
Floor Hearing Rooms), Sacramento, CA 95814

on Thursday, April 10th, 1997, at the hour of 9:00 AM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: March 6, 1997

DEPARTMENT OF REAL ESTATE

By *James L. Beaver*
JAMES L. BEAVER Counsel

1 JAMES L. BEAVER, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789

FILED
FEB - 6 1997
DEPARTMENT OF REAL ESTATE

By *Lauriel A. Zan*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 ISMAEL PAPO PEREZ,) NO. H-3261 SAC
13 Respondent.) ACCUSATION
14 _____)

15 The Complainant, Charles W. Koenig, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against ISMAEL PAPO PEREZ (hereinafter "Respondent"), is informed
18 and alleges as follows:

19 I

20 Respondent is presently licensed and/or has license
21 rights under the Real Estate Law, Part 1 of Division 4 of the
22 Business and Professions Code (hereinafter "Code").

23 II

24 The Complainant, Charles W. Koenig, a Deputy Real Estate
25 Commissioner of the State of California, makes this Accusation
26 against Respondent in his official capacity.

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III

On or about February 28, 1994, in the Municipal Court of the State of California, County of Sacramento, Respondent was convicted of the crime of WELFARE FRAUD, in violation of Welfare and Institutions Code Section 10980(c)(2), a misdemeanor and a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations (herein "the Regulations"), to the qualifications, functions or duties of a real estate licensee.

IV

The facts alleged above constitute cause under Sections 490 and 10177(b) of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other provisions of law.


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California
this 6th day of February, 1997.

